In my judgment the basic question in this case is whether or not the plaintiff is entitled to proceed under Order 14 to obtain summary judgment. In my opinion the answer to the question lies in the express wording of our Order 14. Limitations set out therein do not apply in this case. Admiralty actions are not expressly excluded in our Order 14 and therefore the procedure under Order 14 is available to the plaintiff. In my opinion, reference to the Rules of the Supreme Court of England is of no help because the High Court in England has various Divisions for the more convenient despatch of business and Order 14 procedure has always been available only in the Divisions specified in subrule (2) of rule 1 of Order 14. We have no such Divisions in our High Court and it follows that Order 14 procedure is available in every action begun by a writ save and except actions specified in paragraphs (a) and (b) of subrule (2).

As regards the second ground relied upon by the defendants, there is documentary evidence that the sum of $3,555.67 was paid by the plaintiff for a fine imposed on the ship and accordingly he is entitled to recover this sum as a disbursement made on behalf of the ship. The letter from the Customs Department dated August 21, 1978 and marked Exhibit "CB7" which is referred to in the affidavit of the plaintiff filed on August 24, 1978, states quite clearly that the fine was imposed on the plaintiff in his capacity as master of the vessel and "not in his personal capacity".

For these reasons the application to set aside the judgment entered on July 31, 1978 against the defendants is dismissed with costs.

Application dismissed.

Solicitors: *Netto, Low & Partners; Rodyk & Davidson.*

D.K. GUDGEON v. PROFESSIONAL ENGINEERS BOARD

[O.C.J. (Choor Singh J.) February 6, 1980]
[Singapore — Originating Motion No. 3 of 1979]

Engineer — Improper Conduct — Cancellation of registration by Board — Punishment manifestly excessive.

Administrative Law — Domestic tribunal — Engineer — Improper conduct — Suspension.

The appellant in this case was a registered engineer. The Board of engineers had decided that his conduct amounted to "improper conduct which renders him unfit to be a registered professional engineer". He had allowed a wall to be erected without an approved plan some ten years ago. The said wall collapsed and damaged a number of cars.

Held: the appellant had learnt his lesson and justice will be done if the Order of the Board cancelling his registration was altered to an Order suspending him from practice for one year.

ORIGINATING MOTION.

Nicholas Addison Phillips Q.C. (*M.H. Rubin* with him) for the appellant.

Loh Lin Kok for the respondent.

Cur. Adv. Vult.

Choor Singh J. (delivering oral judgment): Mr. Gudgeon's conduct in this matter has been judged by his peers to amount to "improper conduct which renders him unfit to be a registered professional engineer". There is evidence to support that finding and it would be wrong on the part of this court to disturb that finding when it is supported by evidence. The members of the Board are eminently qualified to judge what does and what does not amount to improper conduct on the part of a professional engineer.

As regards the sentence, in my judgment the punishment imposed on Mr. Gudgeon is manifestly excessive. The Board does not appear to have taken into consideration that they were punishing him for something which he did or failed to do some ten years ago. Furthermore, the members of the Board appear to have been unduly influenced by the fact that the wall collapsed and damaged a number of cars. They seem to have punished him for the collapse of the wall which in my opinion they were not entitled to do. There is no evidence of any incompetence on the part of Mr. Gudgeon. The collapse of the wall was, more likely than not, due to faulty construction and not due to faulty design. The punishment should have been limited to his refusal to regularise an unauthorised retaining wall i.e. his failure to take either remedial action such as strengthening the wall and having it approved or knocking it down and reconstructing it. Mr. Gudgeon persistently refused to do any such thing and was therefore in breach of his professional duty to regularise the position because it was he who had allowed the wall to be erected without an approved plan.

In my opinion, Mr. Gudgeon has learnt his lesson and justice will be done if the Order of the Board cancelling his registration is altered to an Order suspending him from practice for one year. The suspension will commence as from today. The Order on the second charge is to stand.

Mr. Gudgeon will also pay the costs of these proceedings as taxed.

Order accordingly.

Solicitors: *Amarjit, Rubin & Partners; Loh Lin Kok.*